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No. 577

IN THE

Supreme Court of the United States

OCTOBER TERM, 1940

ARTHUR W. MITCHELL . . . . . Appellant,

vs.

THE UNITED STATES OF AMERICA, INTERSTATE COMMERCE COMMISSION, FRANK O. LOWDEN, ET. AL.

BRIEF ON BEHALF OF THE COMMONWEALTH OF KENTUCKY, AS AMICUS CURIAE

HUBERT MEREDITH,
Attorney General,

M. B. HOLIFIELD,
Assistant Attorney General.

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MAY IT PLEASE THE COURT:

Notwithstanding we have authorized the Attorney General of Alabama to sign our name to his brief herein, we wish to emphasize a point that occurs to us as being important. The harmonious relations of the white and colored people in the United States have until recent years been one for Southern people to solve.

It is true that in every part of our nation where assaults have been made upon white women by colored men or exceptionally brutal and inexcusable murders committed by either white or colored, there have been lynchings which under no circumstances should be tolerated.

Every person charged with crime is entitled to an open and fair trial in court before the inflicting of punishment or his or her innocence is vindicated. But we wish to call this Court's attention to the fact that no mass murder of innocent colored men has ever occurred in the Southern states such as did occur in Southern Illinois and on one of the mixed bathing beaches in Chicago a few years ago. In the Southern part of the United States there is more pure Anglo-Saxon blood than in any like territory in the world, and likewise, there are more pure blooded Negroes than in any like territory in the world except the continent of Africa.

In this same Southland, you will discover among the Negroes a greater degree of universal Christian culture, education, and economic independence than in all the rest of the world. To what can you attribute this marvelous progress of this race from slavery to the elevated position it now occupies? There can be but one answer: They have been permitted to develop cultural standards of their own, unhampered by an intermeddling and dominant race. They have their own churches, their own grammar and high schools, their own colleges and universities. Our steam railways furnish them separate coaches, leaving them free in their transportation from the critical inspection of other races who neither understand nor can sympathize with the advantages and disadvantages under which this race has made its marvelous progress in the last seventy-five years. They have their own public parks and places of amusement.

The reason for race prejudice and antagonism is that neither of the contacting races understands the motivating impulses of the other race. No one can do his best under the carping antagonistic criticism of others. Our best development is made where our efforts receive understandable and sympathetic criticism.

The Anglo-Saxon and the Negro of the South understand each other. Neither interferes with the cultural development or social affairs of the others. Southern white men glory in the achievements of Dr. Washington and Carver of Tuskegee, and Paul Laurence Dunbar of Dayton, Ohio. While the latter was born and educated in the North, his father and mother were Southerners.

On April 6, 1941, the author of this brief read on page 12 of column 4 of The Courier-Journal, Louisville, Kentucky, the following news item:

"White Man Refusing Seat to Negro Shot on Tram

"Assailant, Woman Escape

"A white man who wouldn't give part of his seat to a Negro woman was shot by a Negro man at 7:05 p. m. Saturday in a crowded street car on 2d near Breckinridge.

"The white man was identified from a union card in his pocket as Sam J. Belin, 65, of 1142 So. 2d, electrician at the Charlestown powder plant. He was admitted to the City Hospital in a critical condition, a bullet wound in his stomach.

"The Negro man and woman and a Negro man who accompanied them left the car, which stopped immediately.

"Witnesses said the Negroes entered the car together, Belin, a 200-pound man, sat alone on a seat near the front. A Negro man asked Belin to give part of his seat to the Negro woman.

"Belin was quoted as saying, 'I ain't giving no seat to a nigger.'

"Witnesses added that the woman slapped Belin, who then arose from his seat and moved toward the trio. One of the Negro men pulled an automatic pistol from his pocket and fired one bullet into Belin's stomach.

"Motorman Ernest Snyder, 45, of 2813 So. 3d, said he opened the doors automatically when he stopped the car. Passengers on the car made no attempt to stop the Negroes as they left.

"It was reported at Belin's address that he had been there only a week. His union card also gave an address of 570 Teasdale Road, the Bronx, New York."

This unfortunate tragedy would not have occurred if the State of Kentucky had required separate cars for white and colored passengers on its street railways as it does on its steam railways. The Northern white man and the Southern Negro did not understand either the motive or courage of the other. We need not less, but more of separation of the whites and colored.

The Federal Congress has wisely failed to legislate upon this problem in interstate transportation, leaving it to the wisdom of the respective states and the carriers. There is where this problem is being successfully solved and where it should remain.

Of the briefs that have been filed in this case and which we have been permitted to read, the brief for the Interstate Commerce Commission by the Honorable Daniel W. Knowlton and J. Stanley Payne has accurately presented the legal argument which the Commonwealth of Kentucky would have presented. We adopt that brief as our own and join them in the contention that the decree of the court below should be affirmed.

Respectfully submitted,

HUBERT MEREDITH
Attorney General of Kentucky

M. B. HOLIFIELD
Assistant Attorney General

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